

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MELVIN S. TAYLOR,

Case No. 08-470-HO

Plaintiff,

ORDER

v.

Commissioner of Social Security,

Defendant.

The administrative law judge's finding that plaintiff failed to prove he did not engage in substantial gainful activity for a continuous 12-month period is supported by substantial evidence. Plaintiff's work efforts during the period of alleged disability yielded a level of earnings indicative of the ability to perform SGA. (Tr. 333, 387, 393, 423); 20 C.F.R. §§ 404.1574, 404.1574a. These work efforts are not unsuccessful work attempts because they did not cease due to plaintiff's impairment. (Tr. 333, 393, 423); 20 C.F.R. § 404.1574(c). The ALJ properly determined that with eye glasses, plaintiff can see well enough to work, and that plaintiff could have returned to work immediately following

his alleged onset date. (Tr. 332-33, 433, 437). Moreover, plaintiff failed to recall the date he obtained his eye glasses. (Tr. 432, 434, 436, 438). Although the ALJ left the record open for plaintiff to submit medical records with this information (Tr. 439-40), plaintiff submitted no such records.

Conclusion

Based on the foregoing, the Commissioner's decision denying plaintiff's application for a period of disability and disability insurance benefits is affirmed.

SO ORDERED.

DATED this 12th day of May, 2009.

s/ Michael R. Hogan
United States District Judge